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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,657	04/24/2001	Duncan M. Kitchin	INTL-0405-US (P8988)	6439
7590	06/27/2006		EXAMINER	
Timothy N. Trop TROP, PRUNER & HU, P.C. STE 100 8554 KATY FWY HOUSTON, TX 77024-1805				LEE, CHI HO ANDREW
		ART UNIT		PAPER NUMBER
		2616		
DATE MAILED: 06/27/2006				

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/841,657  
Filing Date: April 24, 2001  
Appellant(s): KITCHIN, DUNCAN M.

**MAILED**

JUN 27 2006

Timothy N. Trop  
For Appellant

**GROUP 2600**

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 4/14/06 appealing from the Office action  
mailed 10/31/05.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 8, 18-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Newberg et al U.S. Patent Number 6,680,930.

Re Claims 1, 18, 19, 24, fig.3 teaches a base site (a wireless network hub) that includes wireless modem 308 (an interface) to transmit data to a mobile station 102 of fig. 1; further includes a Processor 302 (a controller) communicatively coupled to the 308 and functions in accordance to fig. 5, whereby upon reception of the application requirement step 500 from the mobile, the bandwidth manager reserve bandwidth on the channel 510 (transmit a first portion of the data using reserved bandwidth); step 516 determines additional bandwidth is required at the mobile (a bit rate change event) and New bandwidth request 518 to base site step 502 and base site determines whether additional bandwidth (unreserved bandwidth) is available step 504 and if available additional bandwidth (based on a determination of the channel requirement) is reserved 510 and transmitted 514 (a second portion of the data) (See col. 5, lines 40 ~ col. 6, lines 1-48), wherein the additional bandwidth is allocated to the same mobile.

Re Claims 2, 3, 23, 25-28, refer to Claim 1, wireless network card (access point) transit in wireless medium to a wireless client and wired network.

Re Claims 4, 5, 20-22, 29, 30, refer to Claim 1, wherein the additional bandwidth is based on e new delay-sensitive application at the mobile 102 wherein the pre-selected bit rate is based on the application requirements.

Re Claim 8, refer to Claim 1, wherein system supports delay and non-delay sensitive applications.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 7, 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newberg et al U.S. Patent Number 6,680,930 in view of U.S. Patent Number 6,751,477.

Re Claim 9, Newberg determines the channel requirements for determining the bandwidth. Newberg fails to explicitly teach determining “a drop in QoS”. However, ‘477 patent teaches a QoS Monitors that monitor certain statistics of the IP network. One skilled in the art would have been motivated to include a QoS Monitor into the base site of Newberg to monitor for QoS parameter in determining a reliable bandwidth to the mobile. Therefore, it would have been obvious to one ordinary skilled to combine the teaching of ‘477 patent into the teaching of Newberg.

Re Claims 6, 7, 10, refer to Claim 1, Newberg et al fails to explicitly teach “detecting a reduced transfer rate”. However, ‘477 patent teaches a QoS Monitor that detects, among other things, packet loss wherein packet loss is indicative of reduced transfer rate. One skilled in the art would have been motivated to determine the QoS parameter for the established connection to determine reliable throughput, i.e., determine a new bandwidth.

Re Claims 11-15, refer to Claim 10, wherein additional bandwidth is enable by process 302 of fig. 3 Newberg.

Re Claims 16, 17, refer to Claim 10, processor supports delay and non-delay sensitive applications (priority data).

#### **(10) Response to Argument**

##### Re Claims 1-5, 8 and 18-30:

Firstly, Applicant argues that “a bit rate change event” is not disclosed in Newberg.

Examiner respectfully disagrees.

Applicant further argues, “it is clear that the request is a request from an additional application..”. This is relevant because “application” is not claimed nor does the claim limitations limit the use of different applications executing in the same mobile requesting additional bandwidth. What is explicitly claimed is “a bit rate change event”.

Applicant is directed to fig. 5. Initially, a mobile device sends an application requirement to the Bandwidth manager. The requirements, among other things, include a bit rate (See col. 5, lines 45-48). If bandwidth is available, the bandwidth is reserved

for the requested bit rate to transmit data (a first portion), see Step 510. Step 518 determines whether additional bandwidth is required (detecting the bit rate change event) for the application/data (See col. 7, lines 20-30). IF YES, it loops back to step 504 to see if bandwidth is available, IF YES, bandwidth is reserved. Hence, the data is transmitted over first reserved bandwidth (first portion) and if more bandwidth is available, the data is transmitted over additional bandwidth (a second portion). The additional bandwidth was unreserved and available for bandwidth allocation.

Applicant argues that "bandwidth allocation" suggests that if something changes, a new bandwidth is allocated, and is opposite of "applying an unreserved bandwidth as set forth in claim 1. Applicant is again referred to fig. 5 of above. The new bandwidth allocation due to step 516 includes the reserved bandwidth that was allocated previously and the additional bandwidth. The additional bandwidth is allocated from a unreserved bandwidth pool.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

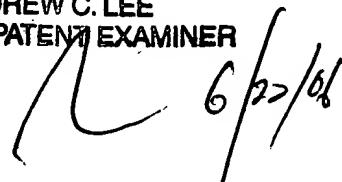
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Andy Lee

Primary Examiner

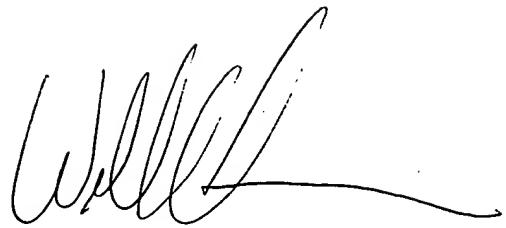
ANDREW C. LEE  
PRIMARY PATENT EXAMINER

 6/27/06

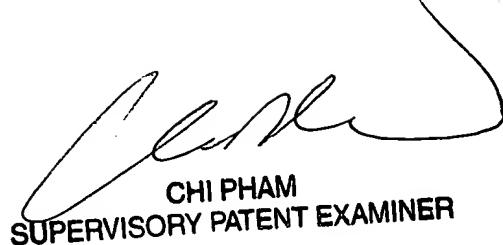
Conferees:

Wellington Chin (SPE)

Chi Pham (SPE)



WELLINGTON CHIN  
WELLINGTON CHIN  
SUPERVISORY PATENT EXAMINER



Chi Pham  
SUPERVISORY PATENT EXAMINER